

REMARKS

The Office Action mailed August 23, 2006 has been received and reviewed. Claims 2-5, 13 and 21 had been canceled previously. Claims 1, 6-12 and 14-20 are pending in the application. Claims 12 and 14-20 had been previously withdrawn from consideration. Claims 1 and 6-11 stand rejected. Claims 1 and 8 have been amended as previously set forth. The specification has also been amended as previously set forth. All amendments are made without prejudice or disclaimer. Reconsideration is respectfully requested.

Claim Rejections – 35 U.S.C. § 112

Independent claims 1 and 8, and dependent claims 6-7 and 9-11 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for containing the trademark/trade name PER.C6TM. Although applicants respectfully disagree, to expedite prosecution claims 1 and 8 have been amended to replace the term PER.C6TM cell with specific descriptions of the cell. In view of the amendment, withdrawal of the rejection is respectfully requested.

Claim Rejections – Double Patenting

Claims 1-7 and 9-11 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 28-50 of copending Application No. 11/039,767. To expedite prosecution, a terminal disclaimer is enclosed herewith to overcome the double patenting rejection. Withdrawal of the rejection is thus respectfully requested.

Claim Rejections – 35 U.S.C. § 102

Claims 1-2 and 9-11 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Van Berkel et al. (US Patent Application Publication US 2005/0170398 A1). The instant application is to be amended to claim the right of priority to the parent of van Berkel et al. (i.e., to the filing date of then co-pending PCT International Patent Application No. PCT/EP2003/007690 (filed on July 15, 2003), designating the United States of America, and

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published, in English, as International Publication No. WO 2004/009618 A2 on January 29, 2004, PCT International Patent Application No. PCT/EP03/50201, filed May 27, 2003, European Patent Application No. 02077953.4, filed July 18, 2002, and United States Provisional Patent Application Serial No. 60/397,066, filed July 18, 2002).

Pursuant to Rule 55(c)(2)-(3), applicants submit that:

“the entire delay between the date the claim was due under paragraph a(1) of [Rule] 55 and the date claimed was unintentional”, and

the appropriate fee pursuant to Rule 1.17(t) is submitted herewith.

Grant of the right of priority to the parent of Van Berkel et al. and withdrawal of the rejection under Van Berkel et al. are thus respectfully requested.

In view of the amendments and foregoing analysis, claims 1 and 6-11 are believed to be in condition for allowance. Applicants respectfully request rejoinder of the pending method claims, *i.e.* claim 12, 14-20, upon allowance of product claims 1 and 6-11.

If questions remain after consideration of the foregoing, the Office is kindly requested to contact applicants' attorney at the address or telephone number given herein.

Respectfully submitted,



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ACT/bv/lf

Enclosure: fee pursuant to Rule 1.17(t)